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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/759,220	01/16/2001	Keiichi Hayashi	Q62674	9946

7590 10/23/2003

SUGHRUE, MION, ZINN
MACPEAK & SEAS
2100 Pennsylvania Avenue, N.W.
Washington, DC 20037

EXAMINER

PEREZ, JULIO R

ART UNIT	PAPER NUMBER
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2681

DATE MAILED: 10/23/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/759,220

Applicant(s)

HAYASHI, KEIICHI

Examiner

Julio R Perez

Art Unit

2681

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) The invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Yoshino (6,308,086).

Regarding claim 1, Yoshino discloses a mobile communication terminal (portable cellular phone, col. 1, line 49) equipped with a browser function (musical scale information can be transferred, acquire, from a distant device through means of radio-communication function based on a radio wave, col. 8, lines 9-14 and 43-49), comprising: means for fetching melody data (col. 8, lines 43-49) from a server apparatus (from a distant device through radio wave communication, col. 8 lines 11-14) by using said browser function (the cellular phone comprises an external interface ~~to~~ for inputting musical scale information (tones), col. 7, lines 37-40); and tone setting means for setting ringing tones (ringing tone setting, col. 8, lines 16-17) based on tone information contained in said melody data (musical scale information stored, col. 4, lines 47-49).

Regarding claims 2 and 9, Yoshino discloses a mobile communication terminal, wherein if said melody data contains no tone information, said tone setting means sets a ringing tone based on preset tone information (if melody or tone information is not needed, ringing tone will have to stay as preset, col. 7, lines 15-18).

Regarding claims 3 and 10, Yoshino discloses a mobile communication terminal, wherein if said melody data (musical scale signal from musical scale information; col.1, lines 60-61) contains tone information, said tone setting means judges the validity of said tone information (col. 7, lines 11-14 and 22-25).

Regarding claims 4 and 11, Yoshino discloses a mobile communication terminal, wherein said tone setting means sets ringing tones by performing a modulation processing based on said tone information contained in said melody data. (The desired extracted audio signal frequencies have to be converted to a suitable form for output transducer, which, in fact, includes signal modulation; therefore, modulation must have taken place, col. 4, lines 32-40.)

Regarding claims 5 and 12, Yoshino discloses a mobile communication terminal, wherein said tone information contained in said melody data constitutes tone parameters (by computation means extracts frequency components (parameters) from the audio signal corresponding to a musical scale (tone information), col. 4, lines 34-36) used for said modulation processing.

Regarding claims 6 and 7, Yoshino discloses a mobile communication terminal, further comprising: ringing-speed setting means (by controlling the periodicity suited to the rhythm, the rhythm of the melody to be reproduced, played, can be changed by means of a timing signal, col. 2, lines 54-55 and col. 6, lines 16-19) for setting a tempo (the relative speed at which music is or ought to be played, col. 6, lines 25-27) at which a melody is played in accordance with said melody data.

Regarding claim 8, Yoshino discloses a ringing method for a mobile communication terminal equipped with a browser function (the device can download (transfer) data from a distant device (server), col. 8, lines 9-13), comprising the steps of: having access to a server equipment (may have access to an external source to input musical scale information, col. 7, lines 37-40) by means of said browser function; notifying (a control section provides instructions (requests or notifies), col. 7, lines 51-56) said server equipment of desired melody data in conformity with said access; receiving said desired melody data from said server equipment (col. 7, lines 55-61); storing said desired melody data (musical scale information stored, col.4, lines 47-50) received in said receiving step; judging whether said melody data stored (col. 7, lines 11-14 and 22-25) in said storing step contains tone information; fetching said tone information (extracting, col. 4, lines 56-63 and col. 8, lines 43-49) if said judging step judges that said melody data contains the tone information; setting a tone for playing a melody ((ringing tone setting, col. 8, lines 16-17) in accordance with said melody data, based on said tone information fetched in said fetching step; and playing said melody (musical scale information (tones), col.8, lines 21-23) in said tone set in said setting step.

Regarding claims 13 and 14, Yoshino discloses a ringing method for a mobile communication terminal according to claim 9, further comprising a ringing-speed setting step (by controlling the periodicity suited to the rhythm, the rhythm of the melody to be reproduced, played, can be changed by means of a timing signal, col. 2, lines 54-55 and col. 6, lines 16-19) of setting a tempo (the relative speed at which

music is or ought to be played, col. 6, lines 25-27) at which a melody is played in accordance with said melody data.

Conclusion

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following patents are cited to further show the art with respect to mobile communication terminal or mobile stations and ringing methods.

US Pat. NO. 5,953,005 to Liu

a system for providing access to multimedia through the World Wide Web.

US Pat. NO. 6,400,958 to Isomursu et al.

A mobile terminal capable of supporting a plurality of applications.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Julio R Perez whose telephone number is (703) 305-8637. The examiner can normally be reached on Monday - Friday, 7:30AM-4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sinh N Tran can be reached on (703) 305-4040. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9314.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4750.



**SINH TRAN
PRIMARY EXAMINER**

JP
10/6/03